

**From:** Ocie Mitchell  
**To:** Microsoft ATR  
**Date:** 1/23/02 3:07pm  
**Subject:** Microsoft Settlement

I would like to briefly state my objections to the proposed final judgement (PFJ) between the DOJ and Microsoft.

Microsoft's file formats would remain secret under the PFJ. This aids Microsoft in maintaining its monopoly and forcing users to upgrade to the latest software.

Microsoft's APIs would also not be effectively opened by the PFJ. APIs that Microsoft must disclose on a reasonable and non-discriminatory basis effectively rule out any free-software, university research, or any non-commercial use of the information. Programmers would not be able to make their own middleware to emulate a Windows environment because the PFJ prevents them from using the API information provided by Microsoft, and because the APIs are covered by several patents, which are not disclosed. Finally, Microsoft can continue to have undocumented APIs which implement 'security' or 'content control', and are thus too vague and widespread.

Business practices that are still allowed under the PFJ include allowing Microsoft to discriminate against OEMs that ship PCs without a Windows operating system. The PFJ requires Microsoft to offer the same terms to the top 20 OEMs, but makes no mention of smaller OEMs. Microsoft would also be allowed to offer discounts to OEMs that sold other products such as office, or pocketPC, thus extending/strengthening their monopoly into these areas.

I believe the PFJ is weak in these and other areas and it should be written to be more inclusive and not as narrowly defined. Microsoft found and exploited loopholes in the 1995 consent decree, and there is no reason to believe that they will act differently this time. Microsoft has been found guilty of violating anti-trust law, but is not being fined for this violation.

Thank you for your time,

Ocie Mitchell

Pasadena, CA.

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